

## **REMARKS**

By the present invention, the specification, abstract and Claims 1-3, 5-7 and 9-11 have been amended, and Claims 4 and 8 have been canceled. Claims 1-3, 5-7 and 9-11 remain pending in the present application. Claims 1, 3 and 7 are independent claims.

Applicant respectfully submits that the amendments to the specification, abstract and claims are fully supported by the original disclosure, and introduce no new matter therewith. Applicant respectfully requests reconsideration and allowance in view of the foregoing amendments and the following remarks.

1. The specification and abstract of the disclosure are objected to because of indefinite language. Applicant has amended the specification and abstract, and respectfully submits that this objection is overcome and requests withdrawal of this objection.

2. Claims 1-4 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. In particular, the Office Action noted several instances where there was insufficient antecedent basis for claim terminology. Applicant has amended Claims 1-4 such that Claims 1-4 fully comply with 35 U.S.C. § 112, second paragraph. Applicant respectfully submits that the amendments to the claims are fully supported by the original disclosure, and introduce no new matter therewith.

Applicant respectfully requests reconsideration and withdrawal of the rejections of Claims 1-4 under 35 U.S.C. § 112, second paragraph.

3. Claims 7, 8, 10 and 11 are rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Tse-Au (U.S. Patent No. US 6,816,456 B1). Applicant respectfully traverses these rejections.

Amended independent Claim 7 recites a system for allotting basic network resources. The system includes a network resource provider system that provides the basic network resources and a plurality of information provider terminals that provide information. The network resource provider system includes means for selling a basic network resource to the information provider terminals and selling an optional condition for a fee to the basic network resource information provider terminals.

The optional condition is at least one of a preferential option at a premium rate and a non-preferential option at a discount rate. The preferential option enables one information provider terminal to use a part of the basic network resources or its entirety thereof allotted to another information provider terminal. The non-preferential option enables the other information provider terminal to use a part of the basic network resources or its entirety thereof allotted to the one information provider terminal. The fee corresponds to the premium rate associated with the preferential option and the discount rate associated with the non-preferential option.

The network resource provider system also includes memory means and network resource control means. The memory means stores the basic network resources allotted to each of the information provider terminals and the optional condition as well. The network resource control means controls the allotment of said network resources to each of the information provider terminals with reference to the memory means.

Claim 7 is allowable because Tse-Au fails to teach or reasonably suggest all of the features of Claim 7. Tse-Au describes a method and apparatus for assessing network traffic loads, separating the network traffic into the traffic classes either with or without specific client priority/business input, and managing the allocation of available resources. Tse-Au uses a resource managing device 116 to manage network resources over communications link 119 (see Fig. 2; col. 3, lines 41-49; col. 4, lines 59-65; col. 7, lines 29-36; col. 7, lines 57-67).

In particular, Tse-Au says nothing about using the resource managing device 116 to manage network resources according to at least one of a preferential option that are sold at a premium rate and a non-preferential option that is sold at a discount rate. Regarding Claim 7, the preferential option enables one information provider terminal to use a part of the basic network resources or its entirety thereof allotted to another information provider terminal. The non-preferential option enables the other information provider terminal to use a part of the basic network resources or its entirety thereof allotted to the one information provider terminal. The fee corresponds to the premium rate associated with the preferential option and the discount rate associated with the non-preferential option.

There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention, for a reference to anticipate a claim under 35 U.S.C. § 102(a) (see *Scripps Clinic & Research Foundation v. Genentech Inc.*, 18 USPQ 2d 1001, 1010 (Fed. Cir. 1991)). The application of Tse-Au by the Office Action fails to meet this criteria, and amended Claim 7 is allowable over Tse-Au.

Amended Claims 8, 10 and 11 are allowable as being dependent from an allowable claim.

Applicant respectfully request reconsideration and withdrawal of the rejection of Claims 7, 8, 10 and 11 under 35 U.S.C. § 102(a) as being anticipated by Tse-Au.

4. Claims 1, 3, 4 and 6 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tse-Au in view of Ebata et al. (U.S. Patent No. US 6,708,209 B1). Claims 2 and 5 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tse-Au in view of Ebata et al. and Perlman et al. (U.S. Patent No. 5,978,381). Claim 9 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tse-Au in view of Perlman et al. Applicant respectfully traverses these rejections.

Amended independent Claims 1 and 3 respectively recite a method for charging a fee for use of network resources, and a method for allotting basic network resources supplied by a network resource provider system. Amended Claims 1 and 3 also recite, as previously described with respect to amended Claim 7, that when the network resource provider system charges one information provider terminal a fee for use of basic network resources allotted thereto, the network resource provider system sells the one information provider terminal at least one of a preferential option at a premium rate and a non-preferential option at a discount rate, the preferential option enabling the one information provider terminal to use a part of the basic network resources or its entirety thereof allotted to another information provider terminal, the non-preferential option enabling the other information provider terminal to use a part of the basic network resources or its entirety thereof allotted to the one information provider terminal, and the fee corresponding to the premium rate associated with the preferential option and the discount rate associated with the non-preferential option.

The Office Action concedes on page 5 that Tse-Au does not disclose that the network resources provider charges a fee for use of the basic network resources, and relies on Ebata et al. for disclosing a charging management unit 309 for performing necessary processing when fee charging occurs for the allocated resource, and a network configuration information updating unit 311 for periodically verifying and updating the contents of the network path information database 305a and the resource allocation status database 306a (see col. 5, lines 29-44).

Ebata et al. fails to supplement the deficiencies of Tse-Au says because Ebata et al. says nothing about using the charging management unit 309 or the network configuration information updating unit 311 to manage network resources according to a preferential option that is sold at a premium rate and/or a non-preferential option that is sold at a discount rate.

The Office Action concedes on pages 5 and 6 that Tse-Au does not disclose that the preferential option may be determined on the basis of a time zone, and relies on Perlman for disclosing that in the United States, residential local calls are generally charged at a flat-rate per month, regardless of duration and in other countries, local calls during off-peak hours are often cheaper than during peak hours (see col. 6, lines 41-55).

Perlman fails to supplement the deficiencies of Tse-Au says because Perlman says nothing about managing network resources according to a preferential option that is sold at a premium rate and/or a non-preferential option that is sold at a discount rate.

Amended independent Claims 1 and 3 are allowable.

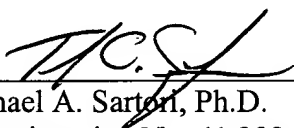
Amended Claims 2, 5-7 and 9 are allowable as being dependent from an allowable claim.

Applicant respectfully requests reconsideration and withdrawal of the rejection of Claims 1, 3, 4 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Tse-Au in view of Ebata et al., and the rejection of Claims 2 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Tse-Au in view of Ebata et al. and Perlman et al., and the rejection of Claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Tse-Au in view of Perlman et al.

5. For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

October 28, 2005

Respectfully submitted,

By   
Michael A. Sartori, Ph.D.  
Registration No. 41,289  
Thomas C. Schoeffler  
Registration No. 43,385  
VENABLE LLP  
P.O. Box 34385  
Washington, DC 20043-9998  
Telephone: (202) 344-4000  
Telefax: (202) 344-8300  
Attorney/Agent for Applicant

MAS/TCS

#693296 v1